STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	**02/20/03**	Bill No:	**SB 566**
Tax:	**Transactions and Use**	Author:	**Scott**
Board Position:		Related Bills:	**SB 402 (Florez)** **SCA 2 (Torlakson)** **AB 1412 (Wolk)** **ACA 7 (Dutra)** **ACA 9 (Levine)** **ACA 14 (Steinberg)** **ACA 15 (Wiggins)**

BILL SUMMARY

This bill would provide that the combined rate of transactions and use taxes imposed in the County of Los Angeles may not exceed 2 percent.

ANALYSIS

Current Law

The **Bradley-Burns Uniform Local Sales and Use Tax Law** (Part 1.5, Division 2 of the Revenue and Taxation Code) authorizes counties to impose a local sales and use tax. The tax rate is fixed at 1.25 percent of the sales price of tangible personal property sold at retail in the county, or purchased outside the county for use in the county. All counties and cities within California have adopted ordinances under the terms of the Bradley-Burns Law and levy the 1.25 percent local tax.

Under the Bradley-Burns Law, the 0.25 percent tax rate is earmarked for county transportation purposes, and 1 percent may be used for city and county general purposes. Cities are also authorized to impose a local sales and use tax rate of up to 1 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed 1.25 percent.

Under the **Transactions and Use Tax Law** (Parts 1.6 and 1.7, Division 2 of the Revenue and Taxation Code), counties are authorized to impose a transactions and use tax at a rate of 0.25 percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters.

Under the Transactions and Use Tax Law, the **current maximum allowable combined rate of transactions and use taxes levied in any county including the County of Los Angeles may not exceed 1.50 percent**, with the exception of the City and County of San Francisco and the County of San Mateo, whose combined rates may not exceed 1.75 and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law allows counties to levy a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for general

This staff analysis is provided to address various administrative, cost, revenue and policy issues: it is not to be construed to reflect or suggest the Board's formal position

purposes with the approval of a majority of the voters. Section 7285.5 permits the board of supervisors of any county to levy a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for specific purposes with the approval of two-thirds of the voters.

Additionally, Section 7286.59 allows counties to levy a transactions and use tax at a rate of 0.125 or 0.25 percent for purposes of funding public libraries, upon two-thirds voter approval. Section 7288.1 allows counties to establish a Local Public Finance Authority to adopt an ordinance to impose a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for purposes of funding drug abuse prevention, crime prevention, health care services, and public education, upon two-thirds voter approval.

As previously stated, Sections 7285, 7285.5, 7286.59, and 7288.1, authorize counties to levy transactions and use taxes under specified conditions. There is no such authority for <u>cities</u> to impose these taxes. Any city desiring to impose a transactions and use tax must seek special enabling legislation from the California legislature.

The following cities, through specific legislation, have received authorization to impose a transactions and use tax: Avalon, Calexico, Clearlake, Clovis, Davis, Fort Bragg, Fresno (and its sphere of influence), Lakeport, Madera, North Lake Tahoe (within boundaries established in legislation), Placerville, Point Arena, Redding, Salinas, Sebastopol, Town of Truckee, Ukiah, Visalia, West Sacramento, Willits, Woodland, and the Town of Yucca Valley. However, only the cities of Avalon, Calexico, Clearlake, Clovis, Placerville, Sebastopol (effective April 1, 2003), the Town of Truckee, West Sacramento (effective April 1, 2003), and Woodland are imposing a tax. The City of Fresno and its sphere of influence had imposed a tax for the period 7/1/93 through 3/21/96, however, this tax ceased to be operative, as it was declared unconstitutional [*Howard Jarvis Taxpayers' Association* v. *Fresno Metropolitan Projects Authority* (1995)].

The Board performs all functions in the administration and operations of the tax ordinances under the Transactions and Use Tax Law. All local jurisdictions imposing these taxes are required to contract with the Board for administration of such taxes.

Proposed Law

This bill would add Section 7251.5 to the Revenue and Taxation Code to provide that the combined rate of transactions and use taxes imposed in Los Angeles County may not exceed 2 percent.

This bill would also add Section 7285.6 to provide as an alternative to the procedures set forth in Sections 7285 and 7285.5 that a countywide transactions and use tax may be levied pursuant to a county initiative that is approved in accordance with Article II and Article XIII C of the California Constitution. The tax may be imposed at a rate of 0.25 percent, or multiple thereof, for general or special purposes, as long as the following requirements are met:

- The initiative proposing the tax must state the rate of the tax, the length of time the tax is to be imposed, and any limitations on how the tax revenues are to be expended.

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- If the initiative proposing the tax is a general tax, the initiative must be approved by a majority of the voters. If the initiative proposing the tax is a special tax, the initiative must be approved by two-thirds of the voters.

- The tax shall be levied in accordance with Part 1.6 (commencing with Section 7251), Division 2 of the Revenue and Taxation Code.

This bill also would amend Section 7251.1 of the Revenue and Taxation Code to add the language "a district, as defined in Section 7252." This amendment would specify that the combined rate of transactions and use taxes imposed in a district, as defined in Section 7252, in any county may not exceed 1.50 percent.

This bill also makes findings and declarations that a special law is necessary because of the uniquely difficult fiscal pressures being experienced by the County of Los Angeles in providing essential services and funding for county programs and operations.

In General

Currently, the Los Angeles County Transportation Commission imposes two transactions and use taxes for a total countywide transactions and use tax rate of 1 percent. The combined state and local tax rate throughout Los Angeles County, with the exception of the City of Avalon, is 8.25 percent. The City of Avalon in Los Angeles County imposes a 0.50 percent (1/2 percent) transactions and use tax, for a total combined state and local tax rate within the City of Avalon of 8.75 percent. Because the City of Avalon imposes a 0.50 percent (1/2 percent) tax and the Los Angeles County Transportation Commission imposes a countywide 1 percent tax, Los Angeles County has reached the maximum allowable rate of 1.50 percent and, therefore, is prohibited from imposing any additional countywide transactions and use taxes.

There are only two counties (City and County of San Francisco and County of San Mateo) that have, through enabling legislation, increased the maximum combined transactions and use tax rate thresholds for their areas.   Senate Bill 482 (Chapter 369, Stats. 1991), among other things, provided that: (1) the combined transactions and use tax rate in the County of San Mateo shall not exceed 0.50 percent in excess of the maximum rate otherwise allowed under Section 7251.1, and the revenues derived from the tax are allocated for the support of public elementary and secondary education in the county; and (2) the combined transactions and use tax rate in the City and County of San Francisco shall not exceed 0.25 percent in excess of the maximum rate otherwise allowed under Section 7251.1.   [Maximum combined transactions and use tax rate was 1 percent, subsequently increased to 1.50 percent (Assembly Bill 1930, Chapter 1024, Stats. 1991)].

Subsequently, Senate Bill 509 (Chapter 73, Stats. 1993) was passed and, among other things, increased the maximum combined transactions and use tax rate for the City and County of San Francisco by 0.25 percent, in excess of the 1.50 percent limitation under Section 7251.1.

Currently, there are two transactions and use taxes imposed in San Mateo County for a total county-wide transactions and use tax rate of 1 percent. The total state and local tax rate throughout San Mateo County is 8.25 percent.   There are three transactions

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and use taxes imposed in the City and County of San Francisco for a total countywide transactions and use tax rate of 1.25 percent. The total state and local tax rate throughout the City and County of San Francisco is 8.50 percent.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the County of Los Angeles Sheriff's Department to raise additional revenues to fund public safety programs.

2. **Suggested amendment.** Current Section 7251.1 provides that the combined rate of all taxes imposed pursuant to this part *in any county* shall not exceed 1.5 percent. This bill amends Section 7251.1 by adding the language "in a district, as defined in Section 7252" before *in any county*. Section 7252 defines a "district" as any county, transit district, or rapid transit district, or the Los Angeles County Transportation Commission or the Orange County Transportation Commission. The problem in referencing Section 7252 is that this section does not account for all of the districts that impose transactions and use taxes. The Sonoma County Open Space Authority and the Napa County Flood Protection Authority are two such "districts" not covered under Section 7252.

   Additionally, there are other section numbers within the 7252 series that define "District." For example, Section 7252.5 defines a "District" as the Tahoe Transportation District. Section 7252.9 defines "District" as any county imposing a tax pursuant to Section 7285. Section 7252.16 defines "District" as a local transportation authority created, or designated to serve as a local transportation authority, pursuant to Division 19 of the Public Utilities Code. The 7252 series section numbers range from 7252.5 to 7252.30. However, even the sections within the 7252 series do not include all of the districts that impose transactions and use taxes.

   Some of these districts are referenced under the Government Code or the Public Utilities Code. However, while some of these districts are not specifically referenced under the various statutes, there are statutes that provide blanket authority allowing districts to impose a transactions and use tax (as an example, Section 7285.5, 7286.59, and 7288.1 of the Revenue and Taxation Code are some of the statutes that provide such authority).

   Therefore, to add the language "in a district, as defined in Section 7252" creates a problem in that it does include those districts that are not covered under Section 7252. Moreover, because there are districts that impose a transactions and use tax under various code sections, it would be cumbersome to reference all of those code sections under Section 7251.1, and it will not account for any new taxes that would be authorized under a section not referenced under the newly amended Section 7251.1. For these reasons, Board staff recommends deleting the language "in a district, as defined in Section 7252" from the bill.

3. **Suggested technical amendment - amend the existing Section 7251.2.** This bill creates a new section, 7251.5, for the purposes of increasing the maximum

combined tax rate for Los Angeles County.   However, there is an existing section, 7251.2, titled "Limitation: County of Los Angeles," that deals with the combined rate limitation.

Section 7251.2 was added in 1990 (Assembly Bill 3736, Chapter 1490, Stats. 1990) to provide that the two local transactions and use tax measures to be submitted to the voters of Los Angeles County at the November 6, 1990 general election. Known as the "Los Angles County Transportation Commission 1990 Fast-Track Anti-Gridlock Transit Improvement Proposition" and the "Local Communities Safety Act-Los Angeles County Regional Justice Facilities Financing Agency," it sought to impose two taxes at a rate of 0.25 percent each. Section 7251.2 also provided that if the limitation of Section 7251.1 should be increased, the rate of each of these taxes would be increased to a rate not to exceed 0.50 percent each.   The Los Angeles Transportation Commission tax passed; the Los Angeles County Regional Justice Facilities Financing Agency tax failed.

Board staff recommends that the language in the proposed Section 7251.5 be added to the existing Section 7251.2. This way people will not be reading through 7251.2 first, only to find that the combined maximum rate for Los Angeles County is not under this section but located under another section--7251.5.   Board staff is willing to work with the author's office in amending Section 7251.2 to add the new language.

4. **This bill adds an alternative to the procedures set forth in Sections 7285 and 7285.5 of the Transactions and Use Tax Law.** Section 7285 authorizes the board of supervisors of any county to levy a transactions and use tax for general purposes at a rate of 0.25 percent, or multiple thereof, if the ordinance proposing the tax is approved by two-thirds vote of the board of supervisors and the tax is subsequently approved by a majority of the voters.   Section 7285.5 authorizes the board of supervisors of any county to levy a transactions and use tax for specific purposes at a rate of 0.25 percent, or multiple thereof, if the tax is approved by a two-thirds vote of the board of supervisors and is subsequently approved by two-thirds of the voters.

This bill adds Section 7285.6 to the Revenue and Taxation Code to allow a countywide transactions and use tax to be levied pursuant to a county initiative at a rate of 0.25 percent, or multiple thereof, for general purposes or special purposes, as long as certain requirements are met.   However, all the authority a county needs to levy a general or special transactions and use tax is already contained in Sections 7285 and 7285.5. The addition of another statute (proposed Section 7285.6), which would accomplish the same thing as existing statutes, would only cause confusion among the various statutes and could result in questions regarding the purpose of the proposed Section 7285.6.   Therefore, Board staff recommends that Section 7285.6 be deleted from the bill as unnecessary.

5. **For uniformity, the Legislature should consider increasing the maximum combined transactions and use tax rate threshold for all counties to 2 percent.** This bill increases the combined transactions and use tax rate for Los Angeles County to 2 percent.   As stated previously, Los Angeles County has reached the maximum combined rate limitation of 1.5 percent under Section 7251.1.   If this bill

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becomes law, other counties more than likely will seek legislation to increase the maximum combined transactions and use tax rate for their areas.

Currently, there are 24 counties (Alameda, Contra Costa, Fresno, Imperial, Inyo, Los Angeles, Madera, Mariposa, Napa, Nevada, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, and Stanislaus) for which one or more transactions and use taxes are being imposed countywide. Also, there are 3 counties (El Dorado, Lake, and Yolo) for which no countywide transactions and use tax is being imposed, but where a city in the county is imposing a transactions and use tax.

As previously stated, there are 22 cities, through specific legislation, that have gained authorization to impose transactions and use taxes. However, only 9 cities (Avalon, Calexico, Clearlake, Clovis, Placerville, Sebastopol, the Town of Truckee, West Sacramento, and Woodland) have received voter approval and are actually imposing a tax.   Additionally, the tax rate imposed by a city counts against the 1.50 percent rate limitation under Section 7251.1.

Therefore, since several counties have more than one transactions and use taxes being imposed within their areas, many cities are attempting to gain authorization to levy transactions and use taxes within their areas, and San Francisco and San Mateo counties already are authorized by statute to have a maximum allowable combined rate of 1.75 percent and 2 percent, respectively, in their areas, the Legislature should consider extending an increase in the maximum combined transactions and use tax rate to 2 percent for all counties.

6. **Related Legislation.**   Six bills introduced in 2003 would place on the ballot a constitutional amendment to change the voter approval requirement for special taxes. **ACA 7 (Dutra)** would constitutionally authorize local transportation agencies and regional transportation agencies, with the approval of 55 percent of the voters in the jurisdiction, to impose a transactions and use tax for a period of 20 to 30 years, as specified, at a rate of 0.50 percent to be used exclusively for transportation purposes. **ACA 9 (Levine)** would constitutionally authorize a city, county, or special district to impose a qualified special tax, as defined, to fund capital infrastructure projects, with the approval of a majority of its voters.   **ACA 14 (Steinberg)** would constitutionally authorize local governments, with the approval of 55 percent of the voters, to impose a special tax to fund local infrastructure projects, including general infrastructure, construction of emergency shelters and affordable housing, conservation of agricultural and open-space land, and neighborhood improvements. **ACA 15 (Wiggins)** would constitutionally authorize local governments, with the approval of a majority of the voters, to impose a special tax to fund local public safety departments, as defined.

SCA 2 (Torlakson) would constitutionally authorize counties, cities and counties, local transportation authorities, and regional transportation agencies, with the approval of a majority of the voters in the jurisdiction, to impose a transactions and use tax to be used exclusively for funding transportation projects and services and related smart growth planning.   **SCA 11 (Alarcon)** would constitutionally authorize local governments, with the approval of a majority of the voters, to impose a special

tax or to incur indebtedness in the form of general obligation bonds to fund infrastructure projects, including construction of affordable housing for persons of very low, low, and moderate income, transportation enhancement activities, acquisition of land for open-space use, and other general infrastructure needs.

Additionally, two bills introduced in 2003 would authorize a special district or cities to impose a transactions and use tax. **SB 402 (Florez)** would authorize the Coalinga-Huron Recreation and Park District and the Cambria Community Services District, with the approval of two-thirds of the voters, to levy a transactions and use tax at a rate not less 0.25 percent, but not to exceed 0.50 percent, for funding of essential park and recreation services. **AB 1412 (Wolk)** would authorize the cities of American Canyon, Benicia, Beverly Hills, Calistoga, Capitola, Colton, Fairfield, Fontana, Los Angeles, Napa, Petaluma, Rialto, Rio Vista, San Bernardino, San Fernando, Santa Cruz, Santa Monica, Santa Rosa, Scott's Valley, Soledad, St. Helena, Suisun City, Vacaville, Vallejo, Winters, and Yountville, subject to either a two-thirds or majority voter approval, depending on how the revenues will be spent, to levy a transactions and use tax at a rate of 0.25 or 0.50 percent.

COST ESTIMATE

This bill only authorizes the County of Los Angeles to levy an additional transactions and use tax, and would not increase administrative costs. However, if the voters approved the county initiative imposing the tax, the authority imposing the tax would be required to contract with the Board to perform functions related to the ordinance, and reimburse the Board for its preparation costs to administer the ordinance as well as the ongoing costs for the Board's services in actually administering the ordinance.

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REVENUE ESTIMATE

Taxable sales in Los Angeles County during fiscal year 2001-02 amounted to $107.2 billion.

A transactions and use tax in Los Angeles County would raise the following amounts annually:

Rate	Revenue
¼ %	$ 268 million
½ %	$ 536 million

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Attachment 1
California Sales, Transactions and Use Tax Rates by County
Effective 01/01/02

01	Alameda	
State		6.00
Local		1.25
ACTA[#]		0.50
ACTI[#]		0.50
BART		0.50
		8.25

02	Alpine	
State		6.00
Local		1.25
		7.25

03	Amador	
State		6.00
Local		1.25
		7.25

04	Butte	
State		6.00
Local		1.25
		7.25

05	Calaveras	
State		6.00
Local		1.25
		7.25

06	Colusa	
State		6.00
Local		1.25
		7.25

07	Contra Costa	
State		6.00
Local		1.25
CCTA		0.50
BART		0.50
		8.25

08	Del Norte	
State		6.00
Local		1.25
		7.25

09	El Dorado	
State		6.00
Local		1.25
PLPS*		0.25
		7.50

10	Fresno	
State		6.00
Local		1.25
FCTA		0.50
FCPL		0.125
CCPS*		0.30
		8.175

11	Glenn	
State		6.00
Local		1.25
		7.25

12	Humboldt	
State		6.00
Local		1.25
		7.25

13	Imperial	
State		6.00
Local		1.25
IMTA		0.50
CXHD*		0.50
		8.25

14	Inyo	
State		6.00
Local		1.25
INRC		0.50
		7.75

15	Kern	
State		6.00
Local		1.25
		7.25

16	Kings	
State		6.00
Local		1.25
		7.25

17		Lake
State		6.00
Local		1.25
CLPS*		0.50
		7.75

18	Lassen	
State		6.00
Local		1.25
		7.25

19	Los Angeles	
State		6.00
Local		1.25
LATC		0.50
LACT		0.50
AMHC*		0.50
		8.25

20	Madera	
State		6.00
Local		1.25
MCTA		0.50
		7.75

21	Marin	
State		6.00
Local		1.25
		7.25

22	Mariposa	
State		6.00
Local		1.25
MCHA		0.50
		7.75

23	Mendocino	
State		6.00
Local		1.25
		7.25

24	Merced	
State		6.00
Local		1.25
		7.25

25	Modoc	
State		6.00
Local		1.25
		7.25

26	Mono	
State		6.00
Local		1.25
		7.25

27	Monterey	
State		6.00
Local		1.25
		7.25

28	Napa	
State		6.00
Local		1.25
NCFP		0.50
		7.75

29	Nevada	
State		6.00
Local		1.25
NVPL		0.125
TRSR*		0.50
		7.875

30	Orange	
State		6.00
Local		1.25
OCTA		0.50
		7.75

31	Placer	
State		6.00
Local		1.25
		7.25

32	Plumas	
State		6.00
Local		1.25
		7.25

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Effective 01/01/02

33	Riverside	
State		6.00
Local		1.25
RCTC		0.50
		7.75

34	Sacramento	
State		6.00
Local		1.25
STAT		0.50
		7.75

35	San Benito	
State		6.00
Local		1.25
		7.25

36	San Bernardino	
State		6.00
Local		1.25
SBER		0.50
		7.75

37	San Diego	
State		6.00
Local		1.25
SDTC		0.50
		7.75

38	San Francisco	
State		6.00
Local		1.25
SFTA		0.50
SFPF		0.25
BART		0.50
		8.50

39	San Joaquin	
State		6.00
Local		1.25
SJTA		0.50
		7.75

40	San Luis Obispo	
State		6.00
Local		1.25
		7.25

41	San Mateo	
State		6.00
Local		1.25
SMTA		0.50
SMCT		0.50
		8.25

42	Santa Barbara	
State		6.00
Local		1.25
SBAB		0.50
		7.75

43	Santa Clara	
State		6.00
Local		1.25
SCCT		0.50
SCGF		0.50
		8.25

44	Santa Cruz	
State		6.00
Local		1.25
SCMT		0.50
SZPL		0.25
		8.00

45	Shasta	
State		6.00
Local		1.25
		7.25

46	Sierra	
State		6.00
Local		1.25
		7.25

47	Siskiyou	
State		6.00
Local		1.25
		7.25

48	Solano	
State		6.00
Local		1.25
SLPL		0.125
		7.375

49	Sonoma	
State		6.00
Local		1.25
SCOS		0.25
		7.50

50	Stanislaus	
State		6.00
Local		1.25
STCL		0.125
		7.375

51	Sutter	
State		6.00
Local		1.25
		7.25

52	Tehama	
State		6.00
Local		1.25
		7.25

53	Trinity	
State		6.00
Local		1.25
		7.25

54	Tulare	
State		6.00
Local		1.25
		7.25

55	Tuolumne	
State		6.00
Local		1.25
		7.25

56	Ventura	
State		6.00
Local		1.25
		7.25

57	Yolo	
State		6.00
Local		1.25
WOGT*		0.50
		7.75

58	Yuba	
State		6.00
Local		1.25
		7.25

#ACTA expired 3/31/02 and ACTI became operative 4/1/02. The tax rate remained unchanged at 8.25%.
The tax in this district is not imposed throughout the county; it is a citywide tax. The county total includes the citywide district tax.